

1 under special temporary authority.

2 A Oh, yes. I did because I talked to Michael
3 Lehmkuhl.

4 Q Okay. Now, what if anything did you do with
5 respect to the operation of that path when you discovered
6 you didn't have any authority to operate? Did you cease
7 operating?

8 A No.

9 Q Did you just -- why not?

10 A It's not my decision to turn the system on. I
11 have to get authorization to -- from the -- let me answer
12 that question. At the time that I did that, I proceeded to
13 provide the STA for those paths. I wasn't told to go turn
14 it off. Let's put it that way.

15 Q You continued to operate the path because you
16 weren't able to turn it off.

17 A That's correct. Nobody said to turn it off.

18 Q Did you discuss with anybody the prospect of
19 turning the path off because you were operating without
20 authorization?

21 A No.

22 Q That issue never came up in any conversation you
23 had with anybody at Liberty.

24 A No.

25 Q Did you discuss that concept with Mr. Lehmkuhl?

1 A No.

2 Q The concept of turning the path off because you
3 didn't have FCC authorization.

4 A No.

5 Q Now, according to Appendix A, again Exhibit 30,
6 you filed, Liberty filed an STA request on May 19, 1995. Is
7 that accurate?

8 A Could you repeat the question?

9 Q According to Appendix A which is Exhibit 30,
10 Liberty filed an STA request on May 19th, 1995.

11 A Yes.

12 Q Would you agree that's approximately a month after
13 your memorandum of April 26th?

14 MR. BEGLEITER: We'll take notice of the
15 difference in dates.

16 JUDGE SIPPEL: All right.

17 BY MR. HOLT:

18 Q And by -- if I can refer you to Exhibit 34 which
19 is the April 28th memo to you from Michael Lehmkuhl. It's
20 Time Warner Cablevision Exhibit 34.

21 A Yes, I have that.

22 Q You were provided with a processing time table for
23 future applications, correct?

24 A Processing time table for future applications?
25 Where it says that? I don't understand.

1 Q You were provided -- at the bottom of page one,
2 going on page two, there is a discussion about processing
3 timeframes, correct?

4 A Well, I have to read it -- page one says you have
5 also asked me to set forth the processing time table for
6 future applications. Yes, that's correct.

7 Q Okay. And if you turn to page, the next page of
8 that memo, it talks about the licensing process taking
9 approximately 90 to 120 days.

10 A Yes.

11 Q Correct? And then it talks about -- it provides
12 you with advice regarding the Commission's processes for
13 granting STAs, right?

14 A Yes.

15 Q And could you take a moment to review the
16 paragraph on page two that begins the Commission has
17 indicated that it will not routinely grant STA's -- requests
18 for STA?

19 A Yes.

20 Q Okay. And under number one it says where the
21 application has appeared on public notice -- why don't we
22 take a moment to review that and then I'll ask you a couple
23 of questions.

24 JUDGE SIPPEL: Let's go off the record.

25 (Whereupon, a brief recess was taken.)

1 BY MR. HOLT:

2 Q So you've had an opportunity to review that.

3 A Yes, I did.

4 Q Does that paragraph indicate to you that STAs when
5 filed with the Commission around this time period will not
6 be routinely granted? Is that what it indicates to you?

7 A Yes.

8 Q There's going to be some sort of delay while the
9 STA considers some sort of request, correct?

10 A Yeah, my understanding is because of the petition
11 they will not automatically grant it.

12 Q So -- but doesn't it also indicate that the FCC
13 doesn't grant STAs at all routinely unless -- except in two
14 circumstances, when the application has appeared on public
15 notice and has been pending for more than 60 days or in
16 emergency situations or where delay would seriously
17 prejudice the public interest.

18 A Well, that's what Michael Lehmkuhl's memo says.
19 You'll have to ask him. I didn't generate that. So it's
20 not my thought. It's his thought.

21 Q Okay. Well, was it your expectation after reading
22 this that an STA request that Liberty filed after this date
23 would be routinely granted in a matter of days?

24 A No. I just read it as it says. It will not be
25 granted in a matter of days.

1 Q But regardless of whether or not a petition is
2 denied -- right?

3 A That's correct.

4 Q So you filed the STA request for 2727 Palisades
5 Ave. on May 19th, 1995 --

6 MR. BEGLEITER: Objection, Your Honor. No
7 foundation that he filed it.

8 MR. HOLT: I'm sorry.

9 JUDGE SIPPEL: Sustained.

10 BY MR. HOLT:

11 Q The STA request was filed by Liberty on May 19th,
12 1995.

13 A Yes.

14 Q And it was your expectation that the STA request
15 would not be, that that would not be routinely granted.

16 A Based on that letter, yes.

17 Q And again, you did nothing to -- you didn't cease
18 operating that path.

19 A None of those 15 paths in question would cease
20 operating after we find that out on April 28th. That's a
21 general -- that's the answer to all of your questions.

22 Q Now, a series of --

23 JUDGE SIPPEL: Well, I want to just clear
24 something up here. Did you have authority to on your own
25 decision to terminate any paths?

1 THE WITNESS: No, sir.

2 JUDGE SIPPEL: You don't have that authority in
3 your job, is that right?

4 THE WITNESS: That's absolutely correct.

5 JUDGE SIPPEL: You would need to get direction
6 from somebody higher than you to terminate a path.

7 THE WITNESS: Yes, sir.

8 JUDGE SIPPEL: Did that ever happen?

9 THE WITNESS: No.

10 BY MR. HOLT:

11 Q And no inquiry by you or to your knowledge anyone
12 else at Liberty was made about whether or not you should
13 turn off the paths pending FCC approval?

14 A Every discussion or every recommendation for me
15 was always a technical part of the business at Liberty
16 Cable. What you're asking is a marketing and legal part of
17 it. I have nothing to do with it.

18 Q So, you had authority to turn on paths, but you
19 don't have authority to turn them off.

20 A That's correct.

21 Q Now --

22 JUDGE SIPPEL: Do you have much more?

23 MR. HOLT: I do, Your Honor.

24 JUDGE SIPPEL: All right. Well, it's 3:30 and
25 this witness has been on the stand for a while. I think we

1 ought to take a ten minute recess. Let's come back at 20
2 minutes to 4:00.

3 (Whereupon, a brief recess was taken.)

4 JUDGE SIPPEL: We're on the record. Get yourself
5 some water there, Mr. Nourain.

6 THE WITNESS: I'm fine.

7 JUDGE SIPPEL: Mr. Holt.

8 MR. HOLT: Your Honor, as a preliminary matter,
9 Mr. Nourain has referred on a number of occasions to a
10 document that was provided -- prepared or provided to him by
11 COMSEARCH that identified applications that were subject to
12 an emission designator problem. I'd like to ask first
13 whether counsel knows if that document was produced to us
14 during discovery.

15 MR. BEGLEITER: First of all, he didn't refer to a
16 document I don't believe that COMSEARCH gave which listed
17 all the emission designators.

18 THE WITNESS: I referred to the folders that --
19 the files that could be, the file that would be provided for
20 FCC -- FCC files will have the technical document which will
21 have those emission designators in it. Also, the STA
22 application, all of those, those are the files, those are
23 the documents --

24 MR. BEGLEITER: Okay. Mr. Nourain, you're
25 referring to the application itself?

1 THE WITNESS: Application, yes.

2 MR. BEGLEITER: Okay. If you'll take a look
3 Mr. Holt, when COMSEARCH provides its information there are
4 a number of places where it indicates the emission
5 designator. I think that's all I know about.

6 BY MR. HOLT:

7 Q Okay. I guess, Mr. Nourain, was there any list
8 ever compiled for you by COMSEARCH or anyone else that
9 identified the applications that were subject to a problem
10 with an incorrect emission designator?

11 A Yes, COMSEARCH will send that.

12 Q They provided you with a single list of those
13 applications that had -- problem.

14 A Yes, at some point they will send that.

15 Q Okay. That's the sort of document that I'm
16 looking for. If there is a single source of information
17 that lists all the applications that were subject to the
18 emission designator problem, I'd like to see it if it hasn't
19 been produced. And if it hasn't been produced, I'd like to
20 be directed to it.

21 A The information that COMSEARCH provided, those are
22 the ones that I saw with the filing that Mr. Begleiter said.

23 Q I'm going to ask you, let me ask you, and I want
24 to be very clear, have you received from COMSEARCH or any
25 other source, a list, a document that lists all of the

1 applications? You provided, if you refer to Time Warner
2 Cablevision Exhibit 35, which is your memo of April 26th,
3 you listed a series of paths that you indicated had been
4 delayed, the licensing had been delayed, due to emission
5 designator changes, correct?

6 A Yes.

7 Q And you must have gone through a process in order
8 to generate this list, some sort of review process.

9 A Those -- no, I discussed that with Michael
10 Lehmkuhl and he, he was telling me about those emission
11 designator paths.

12 Q So Michael Lehmkuhl identified the applications,
13 the paths that you have listed here that were subject to
14 emission designator problems.

15 A You have to be a little bit -- I don't understand
16 your question. As my discussion with Michael Lehmkuhl
17 revealed that he also told me there are certain paths which
18 was rejected to filing because of the emission designator
19 problem and COMSEARCH corrected it and sent it to him to
20 refile. And that's where I found out.

21 Q So you had no idea prior to that conversation and
22 this conversation occurred on or about April 26th, '96?

23 A Yes, that's correct.

24 Q You had no idea prior to April 26th, '96 --

25 MR. BEGLEITER: '95.

1 BY MR. HOLT:

2 Q I'm sorry, '95. That amendments had been filed on
3 May 21st correcting the -- I'm sorry, March 21st, 1995,
4 correcting the emission designator?

5 A The date of March 21st came from what I discussed
6 with him. So I don't recall right now I had anything, yes.

7 Q You didn't know -- in other words, you didn't know
8 on or about March 21st, 1995 that Michael Lehmkuhl was
9 filing amendments to applications to correct the emission
10 designator problems?

11 A No.

12 Q That was done without your knowledge?

13 A That was the -- that was -- oh, yeah. That would
14 be because it was a minor change and he was just refileing it
15 again. Because COMSEARCH provided the change of -- because
16 COMSEARCH corrected that emission designator and sent it out
17 to him.

18 Q So those amendments on March 21st were filed
19 without your knowledge, is that what you're saying?

20 A Yeah, but it was sent to me at some point.

21 Q Prior to April 26th, 1995.

22 A Yeah, I had an amendment to that, yes.

23 Q And did you know prior to the time that the
24 amendment was filed on March 21st that they were going to be
25 filed? Did Michael Lehmkuhl advice you that he was

1 intending to file this amendment to correct problems?

2 A He knew he should have corrected it because that
3 was the amendment that was -- I don't recall if he had any
4 discussion about it.

5 Q Did you receive information from COMSEARCH
6 indicating that there were certain problems with the
7 emission designator?

8 A Yes.

9 Q Okay. Did they provide you with a list which
10 identified the paths that were subject to the problem?

11 A Yes, I received some, yes.

12 Q Okay. It was a list that identified all the paths
13 that you have on -- or at least some of the paths that you
14 have on April 26th, 1995?

15 A It wasn't a list. It's just a data sheet of all
16 the paths.

17 Q A data sheet of the paths that had the emission --

18 A Yes.

19 Q -- designator problems.

20 A Yes.

21 Q What I'd like to see is a copy of that data sheet.
22 Do you have that in your files?

23 A I'll have to look. I've seen it. I'll have to
24 look.

25 MR. BEGLEITER: Okay. I think, Mr. Holt, you have

1 them here. You have several of them here at least because
2 they're part of --

3 THE WITNESS: Yeah, they're the same thing.

4 MR. BEGLEITER: As part of the application.

5 THE WITNESS: And I might have them -- if I
6 received them and I would send them to Lehmkuhl, but he
7 would have them too. I have received that because
8 customarily COMSEARCH will send everything to me as well.
9 Any technical information from COMSEARCH I would have
10 received it.

11 MR. HOLT: First, Mr. Begleiter, which document
12 are you referring to?

13 MR. BEGLEITER: I'm referring to, for example, 25.

14 MR. HOLT: Which is an application filed July
15 17th, 1995. What I'm asking for is a list of the paths that
16 were subject to emission designator problems as of
17 March 21st, 1995 and thereabouts. And the witness has
18 testified that such a list was generated.

19 MR. BEGLEITER: No, he hasn't testified to that,
20 Mr. Holt. I won't have a colloquy, Mr. Holt, but he has not
21 testified to that.

22 THE WITNESS: I'm sorry, I didn't --

23 MR. BEGLEITER: I don't believe --

24 MR. HOLT: I would ask you not to --

25 MR. BEGLEITER: I won't say anything.

1 MR. HOLT: -- provide testimony.

2 MR. BEGLEITER: I won't say anything.

3 MR. HOLT: Your Honor, am I not being clear with
4 what I'm asking the witness? My understanding is that from
5 the witness's responses some sort of list was generated by
6 COMSEARCH which identified the paths which were subject to
7 emission designator problems.

8 THE WITNESS: Yes.

9 MR. HOLT: Okay. And I'm asking to see that list.

10 THE WITNESS: Fine. I'm not objecting to that.

11 MR. HOLT: Okay. We're subject to counsel raising
12 whatever objections he has when you return to your offices,
13 will you please search your files and talk to Mr. Lehmkuhl
14 and provide a copy of that list?

15 THE WITNESS: Fine.

16 JUDGE SIPPEL: Well, before, wait just a minute,
17 Mr. Nourain. What is the purpose of searching out that
18 information?

19 MR. HOLT: There are a number of different
20 purposes, Your Honor. Certain representations have been
21 made by Liberty that these applications were, that the paths
22 were activated prematurely following a licensing delay that
23 was occasioned by these emission designator problems. I'm
24 trying to figure out the scope of the applications of the
25 emission designator problems. I only see two applications

1 on Appendix A to the HDO, Exhibit 30, which were filed in
2 March --

3 JUDGE SIPPEL: The March 21, '95?

4 MR. HOLT: Yes, or thereabouts. Let me see. I'm
5 trying to get a sense of the scope of the applications that
6 were subject to the emission designator problems and it
7 seems to me that the witness has information that would
8 allow us to easily do that. He said he could cross
9 reference his materials and identify those paths in
10 Appendix A that were subject to these problems. So either
11 he could do that. That might be a way to shortcut to
12 provide me with the list so that I can do it. That was an
13 excuse that was offered up for why these paths were
14 prematurely activated --

15 MR. BEGLEITER: Not, it's not.

16 JUDGE SIPPEL: I'm not --

17 MR. BEGLEITER: It's not Liberty's position that
18 the emission designator problem is the cause of any of the
19 HDOs, any of the buildings listed in the HDO as being
20 activated without authority. We went through yesterday on
21 direct the reasons why, Mr. Nourain's assumptions and other
22 reasons. But we're not claiming that the emission
23 designator problem was a reason.

24 MR. HOLT: Well, additionally -- well, I believe
25 that they said the emission designator problem caused delays

1 which he was unaware of. And during those delays he
2 activated the paths. And I'm trying to figure out the scope
3 of the paths that were subject to those problems. And
4 occasionally in this April 26th memo it lists, the memo
5 begins by identifying the paths that were subject to
6 licensing delays due to these problems. And the path 2727
7 Palisades Ave. which operates within the territory where my
8 client operates is listed as among the paths subject to
9 these problems and the license application for that path was
10 filed after the date that the emission problems apparently
11 were corrected on March 21st. So I'm trying to find out
12 what the scope of the problems, the emission designator
13 problems were. And this is the most easy, you know, the
14 easiest way to do it is provide me with a list of those
15 paths.

16 JUDGE SIPPEL: Mr. Begleiter.

17 MR. BEGLEITER: Maybe Mr. Beckner can explain
18 because I'm having trouble following it. We're not claiming
19 that the emission designator problem explains Liberty's
20 lapses in licenses.

21 MR. BECKNER: Well, Your Honor, I mean, I
22 respectfully have to disagree with Mr. Begleiter unless
23 they're going to walk away from what they told the
24 Commission in the surreply as part of what I was going
25 through that with Mr. Nourain.

1 In the surreply it says application processing for
2 each of the above reference cites has exceeded the norm due
3 to the frequency coordinators use of incorrect emission
4 designators. And it references in support of that statement
5 Mr. Nourain's declaration.

6 The point that Mr. Holt is trying to establish is
7 that 2727 Palisades Avenue which is listed as one of the
8 sites in the surreply which is caused by an emission
9 designator problem was in fact not caused by an emission
10 designator problem and since that path was to a site which
11 went in the service area served by his client and not by
12 Time Warner. It was not the subject of a petition to deny
13 that was filed by Time Warner. And yet, that was one of the
14 paths that was activated without a license.

15 And the whole point that we're trying to make here
16 is that the explanations that Liberty is offering with
17 respect to that path do not hold up.

18 MR. BEGLEITER: I just don't follow. Our
19 explanation with regard to that path is that Mr. Nourain --

20 JUDGE SIPPEL: Hold it just a second. Before this
21 goes too much further on this, would Mr. Lehmkuhl --
22 Mr. Lehmkuhl would be the one that was filing these
23 corrective amendments on March 21st, isn't that correct?
24 I'm sure that that's been established here. He's the one
25 that did that. So he should have this list. I mean, if

1 he's going to be --

2 MR. BEGLEITER: If there's a list, he probably has
3 it.

4 JUDGE SIPPEL: He has to have a reason for why he
5 was making these amendments on -- filing these amendments on
6 March 21st.

7 MR. HOLT: And my point, Your Honor, is if such a
8 list exists, I don't care from what source, if such a list
9 exists I would like to see it in advance or hopefully in
10 advance of examining Mr. Lehmkuhl. It doesn't look like
11 I'll be able to, but I'd like to see that list to further my
12 cross examination.

13 MR. BEGLEITER: Your Honor, I don't know if such a
14 list exists or not. What I do know is that whatever
15 amendments were filed are on public record and that's about
16 it. I mean, I don't know why if every amendment that was
17 filed, that amendment was filed. I mean, that amendment is
18 now part of the public domain.

19 JUDGE SIPPEL: Right. Well, I don't want to
20 belabor this. I think the record is clear from Mr. Nourain
21 that there is such a list.

22 THE WITNESS: That's correct. There's data sheets
23 by COMSEARCH. They are underlined emission designator.

24 MR. BEGLEITER: I didn't know this. I don't know
25 whether we produced it or not. I just don't know.

1 JUDGE SIPPEL: All right. Well, let's try and get
2 it for him.

3 MR. BEGLEITER: Okay.

4 JUDGE SIPPEL: And he can ask the questions of
5 Mr. Lehmkuhl with respect to the emissions issue, the
6 emission designator issue.

7 MR. BEGLEITER: All right.

8 MR. HOLT: Thank you, Your Honor.

9 JUDGE SIPPEL: All right. Anything more of this
10 witness?

11 MR. HOLT: Yes, Your Honor. I've got a fair
12 amount. I'll try and move --

13 JUDGE SIPPEL: Yes, let's try and move this along
14 because this man has a plane to catch.

15 CROSS EXAMINATION

16 BY MR. HOLT:

17 Q Mr. Nourain, you referred to a list you received
18 internally prior to the time that you prepared the April
19 26th, 1995 memo. It contained some information about paths
20 and possible Time Warner petitions, correct?

21 A Yes.

22 Q And did you -- did you send that list to
23 Mr. Lehmkuhl or anyone else at Pepper & Corazzini?

24 A It was no list. I talked with him about that.
25 And after I did my own investigation as far as going over my

1 own technical information, we talked about that. After I
2 finished with that, he knew that there were certain paths
3 that he didn't do STA on.

4 Q Okay. Is the document, I'm only referring to the
5 list. Is the document that you referred to, you didn't send
6 that to Mr. Lehmkuhl?

7 A No.

8 Q Did you send it to anyone else within the Liberty
9 Company?

10 A Send it to anybody?

11 Q Did you send it to anyone? Did you share the
12 document with anyone?

13 A I don't recall right now, but I talked with
14 Mr. Ontiveros and then we went and had a meeting with
15 Mr. Price and Mr. Milstein.

16 Q Okay. I'm talking about prior to your meeting
17 with Mr. Milstein you received this information and then you
18 called Mr. Lehmkuhl to talk about it. And I'm wondering
19 when you spoke to Mr. Lehmkuhl you referred to a document
20 that caused you to call him.

21 A That's correct.

22 Q All right. Did you -- what I'm trying to find out
23 is did you send him that document?

24 A I said no.

25 Q Okay. Did you send it to anyone else --

1 A No.

2 Q -- at Liberty?

3 A Didn't send it to anybody, no.

4 JUDGE SIPPEL: You have to wait until he finishes
5 answering, Mr. Holt.

6 THE WITNESS: Didn't send it to anybody.

7 BY MR. HOLT:

8 Q Okay. You received the list, but you didn't send
9 it on.

10 A No.

11 MR. BEGLEITER: Objection. He just said it was
12 not a list.

13 BY MR. HOLT:

14 Q Okay. The document.

15 A I did not send that document to anybody what I
16 recall.

17 JUDGE SIPPEL: All right. He's answered the
18 question.

19 BY MR. HOLT:

20 Q Did you place a copy of the document in your
21 files? Let me backup. Do you maintain files in your
22 offices?

23 A Yes.

24 Q Those documents are maintained -- could you
25 describe how they're maintained?

1 A I have files for, I have four or five FCC files
2 which related to the licensing. There's an FCC Pepper &
3 Corazzini or other files for STAs or filing for
4 applications. So I keep them in there.

5 Q Where are those files maintained?

6 A They're in my office.

7 Q In your office -- or in a --

8 A There are about a number of isolated cabinets and
9 they go in there.

10 Q Are the cabinets outside your office, immediately
11 outside your office?

12 A Those cabinets I'm referring to, no, is inside my
13 office.

14 Q Okay. And are they labeled in any way?

15 A They are labeled FCC, labeled Pepper & Corazzini,
16 COMSEARCH and some of them, you know, filing.

17 Q Do you do your own filing, sir?

18 A Yes.

19 Q Or documents that you place in those files?

20 A I do that, yes.

21 Q Personally. You place the documents in the files
22 yourself?

23 A Yes.

24 Q Are they -- what sort of files are they? Are they
25 folders?

1 A They are folders. The folders, those green type
2 of folders.

3 Q Do they have little holes where you stick little
4 prongs for -- do you punch holes in the documents and then
5 place them in the file?

6 A I don't punch holes into documents.

7 Q And the documents aren't maintained, are they
8 maintained in chronological order?

9 A Not necessarily.

10 Q Is there any sort of order to the way you maintain
11 those?

12 A I don't file that way. I just get them and I just
13 put them in there as soon as it is filled up it goes to a
14 different document. I don't really keep it in that type of
15 order.

16 Q When you say as soon as it's filled up you go to a
17 different document, what do you mean?

18 A When the thickness of that folder is such a way
19 that I cannot fit anything in it and I cannot close the
20 cabinet, I go into a different folder.

21 Q Okay. But you maintain those folders in sequence?

22 A Not necessarily. What do you mean by sequence?

23 Q Do you have any sort of -- I'm trying to figure
24 out your organizational system. Do you have a system?

25 A Well, I would use that for -- there's no system.

1 Just file it and then at some point I go to the next file.
2 If it's filled up, I fill another file and I keep it closer
3 to myself in a certain file. Then after a time that I feel
4 like I don't need them anymore, it just goes to file a
5 different cabinet which I have less access to.

6 Q Where is that file located?

7 A All in the same location, but it's not next to my
8 desk. It's maybe a few feet away.

9 Q Okay. And --

10 A Older files, older correspondence on that cabinet,
11 newer ones. That's for everything.

12 Q Now, is it your ordinary practice to receive a
13 document from Pepper & Corazzini or from executives of the
14 company? After reviewing that document, is it ordinary
15 practice to place it in one of your files?

16 A No, the way I file things I just wait until my
17 desk gets completely filled up. So many things is
18 happening. At some point I sit there and I do that. I'm
19 responsible for a lot of things. It's simplifying --

20 Q But at some point you make the decision. Is it
21 your practice to take documents that you receive from Pepper
22 & Corazzini or from executives at Liberty and place them in
23 a file for it so that you could refer back to them later?

24 MR. BEGLEITER: Objection. Compound and asked and
25 answered.

1 JUDGE SIPPEL: I'll sustain the objection. I'm
2 not sure exactly where you're going with this line of
3 questioning, Mr. Holt, but are you feeling that you haven't
4 gotten information that you asked for or you're trying to
5 lay a foundation to get more information?

6 MR. HOLT: Well, I think one of the issues that's
7 come up, Your Honor, is Liberty's efforts to comply with
8 documents. Plus, I think I'm establishing some foundations
9 for future questions in that regard.

10 JUDGE SIPPEL: All right. Go ahead. Proceed.

11 BY MR. HOLT:

12 Q Okay. So Mr. Nourain, ordinarily when you receive
13 a document from Pepper & Corazzini, you send it to a file,
14 is that correct? That's after some period of time.

15 MR. BEGLEITER: Your Honor, this has been asked
16 and answered now many times.

17 JUDGE SIPPEL: I'll overrule it for this one.

18 THE WITNESS: Yes, after a while I will read it.
19 I will read it and put it into the file. I could have kept
20 it on my desk for a week, for a month. And at some point
21 after I get a chance to clean my desk, that document as well
22 as any other documents will go to some other file. So it's
23 no significance between one or the other as far as my
24 filings go. And it would go to some file which would say
25 Pepper & Corazzini. Then I would use it again if I needed

1 it. I took it out, I'd look at it and then it would go back
2 again.

3 BY MR. HOLT:

4 Q Now, was it your practice, is it your practice to
5 from time to time go through those files and discard
6 documents that you feel are no longer necessary to maintain?

7 A No, the way that I dealt mostly with those type of
8 files was if I needed something and somebody was referring,
9 if I didn't have it, I would have called Pepper & Corazzini
10 and they would fax it to me. The same with COMSEARCH. They
11 had to deal with one file on my project, but I had to deal
12 with maybe hundreds and hundreds of files for different
13 applications. That would be the same practice if I had a
14 contractor or a purchase order or anything. If I needed it
15 and it came out and I didn't have it, I would ask him. It's
16 very simple. Whatever file I get from Pepper & Corazzini,
17 I'm assuming that he has it too. The same with COMSEARCH.
18 They send it. They just send it again if I need it.

19 Q With respect to this document that you received
20 prior to drafting your April 26th memo, Time Warner
21 Cablevision Exhibit 35, do you recall whether you sent a
22 copy of that document to your files?

23 A After a while I haven't seen it on my desk. So I
24 assume it went somewhere in the files.

25 Q In the ordinary course, you would have sent that